



April 7, 2009

ENGROSSED SENATE BILL No. 448

DIGEST OF SB 448 (Updated April 2, 2009 9:57 am - DI 75)

Citations Affected: IC 6-1.1.

Synopsis: Provides that enterprise information technology equipment owned by an eligible business is exempt from personal property taxation for a period agreed to by a designating body (the county council or municipal fiscal body). Provides that before January 1, 2013, a designating body may adopt a resolution providing the exemption to a particular business. Requires that the designating body and the eligible business enter into an agreement concerning the property tax exemption, which must specify the duration of the property tax exemption and may specify that a transferee is entitled to the exemption on the same terms as the transferor. Specifies that the exemption continues for the period specified in the agreement, notwithstanding the January 1, 2013, deadline to adopt a resolution granting an exemption. Defines enterprise information technology equipment as: (1) hardware supporting computing, networking, or data storage function, including servers and routers; (2) networking systems having an industry designation as equipment within the "enterprise" or
(Continued next page)

Effective: July 1, 2009.

**Charbonneau, Hershman, Broden,
Zakas, Landske, Alting, Tallian,
Mishler, Waterman**

(HOUSE SPONSORS — AUSTIN, BORROR, SOLIDAY, NIEZGODSKI)

January 14, 2009, read first time and referred to Committee on Tax and Fiscal Policy.
February 12, 2009, amended, reported favorably — Do Pass.
February 16, 2009, read second time, ordered engrossed.
February 17, 2009, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 3, 2009, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

April 6, 2009, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

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"data center" class of networking systems that support the computing, networking, or data storage functions; and (3) generators and other equipment used to ensure an uninterrupted power supply to such hardware and networking systems. Provides that enterprise information technology equipment does not include computer hardware designed for single user, workstation, or departmental level use. Defines an eligible business to be an entity that meets the following requirements: (1) The entity is engaged in a business that operates one or more facilities dedicated to computing, networking, or data storage activities. (2) The entity is located in a facility or data center in Indiana that contains in the aggregate at least \$10,000,000 in personal property or real property investment that is made after June 30, 2009. (3) The average employee wage of the entity is at least 125% of the county average wage for each county in which the entity conducts business operations.

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April 7, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 448

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 44. (a) As used in this section, "designating body"**
4 **means:**

- 5 (1) in the case of a county, the fiscal body of the county; or
6 (2) in the case of a municipality located in a county that does
7 not contain a consolidated city, the fiscal body of the
8 municipality.

9 (b) As used in this section, "eligible business" means an entity
10 that meets the following requirements:

- 11 (1) The entity is engaged in a business that operates one (1) or
12 more facilities dedicated to computing, networking, or data
13 storage activities.
14 (2) The entity is located in a facility or data center in Indiana
15 that contains in the aggregate at least ten million dollars
16 (\$10,000,000) in:
17 (A) personal property investment; and

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(B) real property investment;
that is made after June 30, 2009.

(3) The average employee wage of the entity is at least one hundred twenty-five percent (125%) of the county average wage for each county in which the entity conducts business operations.

(c) As used in this section, "enterprise information technology equipment" means the following:

(1) Hardware supporting computing, networking, or data storage function, including servers and routers.

(2) Networking systems having an industry designation as equipment within the "enterprise" or "data center" class of networking systems that support the computing, networking, or data storage functions.

(3) Generators and other equipment used to ensure an uninterrupted power supply to equipment described in subdivision (1) or (2).

The term does not include computer hardware designed for single user, workstation, or departmental level use.

(d) As used in this section, "fiscal body" has the meaning set forth in IC 36-1-2-6.

(e) As used in this section, "municipality" has the meaning set forth in IC 36-1-2-11.

(f) Before adopting a final resolution under subsection (g) to provide a property tax exemption, a designating body must first adopt a declaratory resolution provisionally specifying that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation. The designating body shall file a declaratory resolution adopted under this subsection with the county assessor. After a designating body adopts a declaratory resolution specifying that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation, the designating body shall publish notice of the adoption and the substance of the declaratory resolution in accordance with IC 5-3-1 and file a copy of the notice and the declaratory resolution with each taxing unit in the county. The notice must specify a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the notice and the declaratory resolution with the officers of the taxing units who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date for the public

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1 hearing. After the designating body considers the testimony
2 presented at the public hearing, the designating body may adopt a
3 second and final resolution under subsection (g). The second and
4 final resolution under subsection (g) may modify, confirm, or
5 rescind the declaratory resolution.

6 (g) Before January 1, 2013, a designating body may after
7 following the procedures of subsection (f) adopt a final resolution
8 providing that enterprise information technology equipment
9 owned by a particular eligible business is exempt from property
10 taxation. In the case of a designating body that is a county fiscal
11 body, the exemption applies only to enterprise information
12 technology equipment that is located in unincorporated territory
13 of the county. In the case of a designating body that is a municipal
14 fiscal body, the exemption applies only to enterprise information
15 technology equipment that is located in the municipality. The
16 property tax exemption applies to the enterprise information
17 technology equipment only if the designating body and the eligible
18 business enter into an agreement concerning the property tax
19 exemption. The agreement must specify the duration of the
20 property tax exemption. The agreement may specify that if the
21 ownership of enterprise information technology equipment is
22 transferred by an eligible business, the transferee is entitled to the
23 property tax exemption on the same terms as the transferor. If a
24 designating body adopts a final resolution under this subsection
25 and enters into an agreement with an eligible business, the
26 enterprise information technology equipment owned by the eligible
27 business is exempt from property taxation as provided in the
28 resolution and the agreement.

29 (h) If a designating body adopts a final resolution and enters
30 into an agreement under subsection (g) to provide a property tax
31 exemption, the property tax exemption continues for the period
32 specified in the agreement, notwithstanding the January 1, 2013,
33 deadline to adopt a final resolution under subsection (g).

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 448, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 44. (a) As used in this section, "designating body" means:**

- (1) in the case of a county, the fiscal body of the county; or**
- (2) in the case of a municipality located in a county that does not contain a consolidated city, the fiscal body of the municipality.**

(b) As used in this section, "eligible business" means an entity that meets the following requirements:

- (1) The entity is engaged in a business that operates one (1) or more facilities dedicated to computing, networking, or data storage activities.**
- (2) The entity is located in a facility or data center in Indiana that contains in the aggregate at least ten million dollars (\$10,000,000) in:**
 - (A) personal property investment; and**
 - (B) real property investment;****that is made after June 30, 2009.**
- (3) The average employee wage of the entity is at least one hundred twenty-five percent (125%) of the county average wage for each county in which the entity conducts business operations.**

(c) As used in this section, "enterprise information technology equipment" means the following:

- (1) Hardware supporting computing, networking, or data storage function, including servers and routers.**
- (2) Networking systems having an industry designation as equipment within the "enterprise" or "data center" class of networking systems that support the computing, networking, or data storage functions.**
- (3) Generators and other equipment used to ensure an uninterrupted power supply to equipment described in subdivision (1) or (2).**

The term does not include computer hardware designed for single user, workstation, or departmental level use.

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(d) As used in this section, "fiscal body" has the meaning set forth in IC 36-1-2-6.

(e) As used in this section, "municipality" has the meaning set forth in IC 36-1-2-11.

(f) Before adopting a final resolution under subsection (g) to provide a property tax exemption, a designating body must first adopt a declaratory resolution provisionally specifying that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation. The designating body shall file a declaratory resolution adopted under this subsection with the county assessor. After a designating body adopts a declaratory resolution specifying that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation, the designating body shall publish notice of the adoption and the substance of the declaratory resolution in accordance with IC 5-3-1 and file a copy of the notice and the declaratory resolution with each taxing unit in the county. The notice must specify a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the notice and the declaratory resolution with the officers of the taxing units who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date for the public hearing. After the designating body considers the testimony presented at the public hearing, the designating body may adopt a second and final resolution under subsection (g). The second and final resolution under subsection (g) may modify, confirm, or rescind the declaratory resolution.

(g) Before January 1, 2013, a designating body may after following the procedures of subsection (f) adopt a final resolution providing that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation. In the case of a designating body that is a county fiscal body, the exemption applies only to enterprise information technology equipment that is located in unincorporated territory of the county. In the case of a designating body that is a municipal fiscal body, the exemption applies only to enterprise information technology equipment that is located in the municipality. The property tax exemption applies to the enterprise information technology equipment only if the designating body and the eligible business enter into an agreement concerning the property tax exemption. The agreement must specify the duration of the

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property tax exemption. The agreement may specify that if the ownership of enterprise information technology equipment is transferred by an eligible business, the transferee is entitled to the property tax exemption on the same terms as the transferor. If a designating body adopts a final resolution under this subsection and enters into an agreement with an eligible business, the enterprise information technology equipment owned by the eligible business is exempt from property taxation as provided in the resolution and the agreement.

(h) If a designating body adopts a final resolution and enters into an agreement under subsection (g) to provide a property tax exemption, the property tax exemption continues for the period specified in the agreement, notwithstanding the January 1, 2013, deadline to adopt a final resolution under subsection (g)."

Delete page 2.

and when so amended that said bill do pass.

(Reference is to SB 448 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology and Utilities, to which was referred Senate Bill 448, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

MOSES, Chair

Committee Vote: yeas 11, nays 0.

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